CBRE, Inc. *and* Steve Thomas. Case 21–CA–182368

December 16, 2019

DECISION AND ORDER

BY CHAIRMAN RING AND MEMBERS MCFERRAN AND KAPLAN

On November 24, 2017, Administrative Law Judge John T. Giannopoulos issued the attached decision. The Respondent filed exceptions and a supporting brief. The General Counsel filed an answering brief, and the Respondent filed a reply brief.

On December 17, 2018, the Board issued a Notice to Show Cause why the issue of whether the Respondent's arbitration agreement violates Section 8(a)(1) of the National Labor Relations Act because it allegedly interferes with employees' access to the Board and its processes should not be remanded to the judge for further proceedings in light of the Board's decision in *Boeing Co.*, 365 NLRB No. 154 (2017). The Respondent and the General Counsel each filed a response opposing remand. Because the only issue in this case is the facial lawfulness of the arbitration agreement, which is already part of the record before us, we agree with the parties and find that a remand is unnecessary.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.[1]

The Board has considered the decision and the record in light of the exceptions and briefs and has decided to affirm the judge's rulings, findings, and conclusions, as modified herein, and to adopt his recommended Order as modified.[2]

I. FACTS

The Respondent is a corporation with an office and place of business in Los Angeles, California, and is engaged in commercial real estate and investment services.[3] Since at least March 17, 2016, the Respondent has maintained an arbitration agreement that applies to all of its employees. The pertinent language in the arbitration agreement reads as follows:

> In the event of any dispute or claim between you and CBRE (including all of its employees, agents, subsidiary and affiliated entities, benefit plans, benefit plans' sponsors, fiduciaries, administrators, affiliates, and all successors and assigns of any of them), we jointly agree to submit all such disputes or claims to confidential binding arbitration and waive any right to a jury trial.
>
> The claims and disputes subject to arbitration include all claims arising from or related to your employment or the termination of your employment including, but not limited to, claims for wages or other compensation due; claims for breach of any contract or covenant (express or implied); tort claims; claims for discrimination (including but not limited to, race, sex, religion, national origin, age, marital status, or medical condition or disability); claims for benefits (except where an employee benefit or pension plan specifies that its claims procedure shall culminate in an arbitration procedure different from this one); *and claims for violation[s] of any federal, state, or governmental law, statute, regulation, or ordinance. All claims or disputes subject to arbitration, other than claims seeking to enforce rights under Section 7 of the National Labor Relations Act, must be brought in the party's individual capacity, and not as a plaintiff or class member in any class, collective, or representative action.* [Emphasis added.] The arbitration (i) shall be conducted pursuant to the provisions of the arbitration rules of the Federal Arbitration Act; (ii) shall be heard before a retired State or Federal judge in the county containing the Company's office in which you were last employed. The Company shall pay for all fees and costs of the Arbitrator; however, each party shall pay for its own costs and attorneys' fees, if any, except as otherwise required by law.

II. DISCUSSION

Applying the Board's decision in *U-Haul Co. of California*, 347 NLRB 375, 377–378 (2006), enfd. 255 Fed. Appx. 527 (D.C. Cir. 2007), which relied on the "reasonably construe" prong of *Lutheran Heritage Village-Livonia*, 343 NLRB 646 (2004), the judge found that the Respondent violated Section 8(a)(1) because employees would reasonably read the agreement as requiring arbitration of all employment-related claims, including claims alleging violations of the Act.

Thereafter, in *Boeing*, the Board overruled the "reasonably construe" prong of *Lutheran Heritage* and announced a new standard, which applies retroactively, for evaluating the lawfulness of a facially neutral policy. 365 NLRB No. 154, slip op. at 3.[4] Under the new standard, the Board first determines whether a challenged rule or policy, when reasonably interpreted from the employee's perspective, would potentially interfere with employees' rights under

[1] Member Emanuel took no part in the consideration of this case.

[2] We will modify the judge's order language and substitute a new notice to conform to the customary remedial notice language for the violation found.

[3] The parties stipulated that the Respondent, in conducting its operations described above, annually furnishes services directly to employers outside the State of California and, at all material times, has been an employer engaged in commerce within the meaning of Sec. 2(2), (6), and (7) of the Act. We therefore find it unnecessary to rely on the judge's finding that the Respondent is a Delaware corporation, which is not supported by the stipulated record.

[4] *Boeing* replaced only the "reasonably construe" prong of *Lutheran Heritage*. Other aspects of *Lutheran Heritage* remain intact, including the question of whether a challenged rule or policy explicitly restricts activities protected by Sec. 7. 343 NLRB at 646.

Section 7 of the Act. If not, the policy is lawful. If so, the Board evaluates two things: "(i) the nature and extent of the potential impact on NLRA rights, and (ii) legitimate justifications associated with the rule" to determine the lawfulness of the rule. Id.

Subsequently, in *Prime Healthcare Paradise Valley, LLC*, 368 NLRB No. 10 (2019), the Board held that the maintenance and enforcement of arbitration agreements that interfere with employees' rights to file charges with the Board remain unlawful following the Supreme Court's decision in *Epic Systems Corp. v. Lewis*, 584 U.S. __, 138 S.Ct. 1612 (2018) (holding that employee-employer agreements that contain class- and collective-action waivers and require individualized arbitration do not violate Section 8(a)(1) of the Act). Consistent with *Lutheran Heritage*, 343 NLRB at 646, the Board explained that an arbitration agreement that "explicitly prohibits the filing of claims with the Board or, more generally, with administrative agencies must be found unlawful." 368 NLRB No. 10, slip op. at 5. The Board further held that where an arbitration agreement does not contain such an express prohibition—i.e., where the arbitration agreement in question is facially neutral—the *Boeing* standard applies. Id. The Board added that the "when reasonably interpreted" standard is an objective one and "looks solely to the wording of the rule, policy, or other provision at issue[,] … interpreted from the employees' perspective." Id., slip op. at 6 fn. 14.

Applying that standard, the Board found that the arbitration agreement at issue in *Prime Healthcare* violated Section 8(a)(1).[5] First, the Board found that although the agreement did not explicitly prohibit charge filing or other access to the Board and its processes, it did, when reasonably interpreted, interfere with employees' rights to file charges with the Board. Id., slip op. at 5. The Board then weighed the agreement's potential interference with Section 7 rights against the employer's legitimate business justifications. The Board concluded that "as a matter of law, there is not and cannot be any legitimate justification for provisions, in an arbitration agreement or otherwise, that restrict employees' access to the Board or its processes." Id., slip op. at 6. The Board placed arbitration agreements that restrict employees' access to the Board by making arbitration the exclusive forum for the resolution of all claims into *Boeing* Category 3, which is designated for rules and policies that are unlawful to maintain. Id., slip op. at 7.

As in *Prime Healthcare*, the agreement here does not explicitly prohibit charge filing, but it does, when reasonably interpreted, interfere with employees' access to the Board and its processes. Id., slip op. at 6. Contrary to the Respondent's arguments, the agreement does not exclude from coverage claims to enforce Section 7 rights under the Act. The Respondent relies on language in the agreement that states:

> All claims or disputes subject to arbitration, other than claims seeking to enforce rights under Section 7 of the National Labor Relations Act, must be brought in the party's individual capacity, and not as a plaintiff or class member in any class, collective, or representative action.

However, the language in the agreement immediately preceding this sentence requires "confidential binding arbitration" of "any dispute or claim . . . arising from or related to your employment or the termination of your employment *including . . . claims for violation[s] of any federal, state, or governmental law, statute, regulation, or ordinance*" (emphasis added). Like the provision found unlawful in *Prime Healthcare*, the foregoing language makes arbitration the exclusive forum for the resolution of all claims, including claims arising under the Act.

We agree with the judge that the language upon which the Respondent relies, read on its face and in the context of the entire agreement, "only exempts NLRA related claims from the agreement's prohibition against class, or collective, arbitration." It is therefore unlike an exclusion clause that specifically carves out or excludes certain claims under the Act from the scope of the agreement, or a savings clause that preserves employees' rights to file charges with the Board, even if the agreement otherwise includes claims arising under the Act.[6] When read from the perspective of an objective, reasonable employee, the Respondent's agreement makes arbitration the exclusive forum for the resolution of claims including those arising under the Act.[7] As the Board in *Prime Healthcare* held,

[5] The arbitration provision there required "all claims or controversies for which a federal or state court would be authorized to grant relief," including claims under a long list of employment-related statutes and "claims for violation of any federal, state, or other governmental constitution, statute, ordinance, regulation, or public policy," to be resolved by binding arbitration. Id., slip op. at 6. Thus, the policy made arbitration the exclusive forum for the resolution of all claims, including claims arising under the Act.

[6] As described above, the language at issue is an exclusion clause. For an example of a savings clause in a lawful arbitration agreement, see *Briad Wenco, LLC d/b/a Wendy's Restaurant*, 368 NLRB No. 72, slip op. at 2 (2019) (finding arbitration agreement lawful because of savings clause stating that "[n]othing in this [a]greement shall be construed to prohibit any current or former employee from filing any charge or complaint or participating in any investigation or proceeding conducted by an administrative agency, including but not limited to . . . the National Labor Relations Board").

[7] Because the *Boeing* standard is objective, we agree with the judge that the Charging Party's subjective understanding of the arbitration

arbitration agreements that restrict employees' access to the Board by making arbitration the exclusive forum for the resolution of all claims are unlawful Category 3 rules under *Boeing*. *Prime Healthcare*, 368 NLRB No. 10, slip op. at 7.

Based on the foregoing, we affirm the judge's finding that the Respondent violated Section 8(a)(1) of the Act by maintaining the arbitration agreement.[8]

ORDER

The National Labor Relations Board adopts the recommended Order of the administrative law judge and orders that the Respondent, CBRE, Inc., Los Angeles, California, its officers, agents, successors, and assigns, shall take the action set forth in the Order as modified.

1. Substitute the following for paragraph 2(b).

"(b) Notify all applicants and current and former employees who were required to sign or otherwise became bound to the Arbitration Agreement in any form that the Arbitration Agreement has been rescinded or revised and, if revised, provide them a copy of the revised agreement."

2. Substitute the attached notice for that of the administrative law judge.

Dated, Washington, D.C. December 16, 2019

_____
John F. Ring, Chairman

_____
Lauren McFerran, Member

_____
Marvin E. Kaplan, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union

Choose representatives to bargain with us on your behalf

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

WE WILL NOT maintain a mandatory arbitration agreement that our employees would reasonably believe bars or restricts their right to file charges with the National Labor Relations Board.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights listed above.

WE WILL rescind our mandatory arbitration agreement in all of its forms or revise it in all of its forms to make clear that the arbitration agreement does not restrict your right to file charges with the National Labor Relations Board.

WE WILL notify all applicants and current and former employees who were required to sign or otherwise became bound to the arbitration agreement in any form that the agreement has been rescinded or revised and, if revised, provide them a copy of the revised agreement.

CBRE, INC.

The Board's decision can be found at https://www.nlrb.gov/case/21-CA-182368 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273-1940.

agreement is irrelevant. See *Prime Healthcare*, 368 NLRB No. 10, slip op. at 6 fn. 14.

[8] Member McFerran acknowledges that *Boeing*, above, is currently governing law, and joins the majority in applying that standard for institutional reasons but adheres to and reiterates her dissent in that case. Here, Member McFerran agrees with her colleagues that employees would reasonably construe the Agreement as prohibiting employees from filing charges with the Board, under either the standard set forth in *Boeing* or the previous standard.

James Racine, Esq., for the General Counsel.
Gordon A. Letter, Esq. (Littler Mendelson, PC), for the Respondent.
Michael Curtis, Esq. (Baker & Schwartz, PC), for the Charging Party.

DECISION

STATEMENT OF THE CASE

JOHN T. GIANNOPOULOS, Administrative Law Judge. Based upon a charge filed by Steve Thoma (Charging Party or Thoma), on March 31, 2017 a Complaint and Notice of Hearing (Complaint) issued alleging that CBRE, Inc. (CBRE or Respondent) violated Section 8(a)(1) of the National Labor Relations Act (the Act or NLRA) by maintaining an arbitration agreement containing language which employees would reasonably believe infringed upon their rights to file unfair labor practice charges with the National Labor Relations Board (the Board). On April 13, 2017, Respondent filed an answer denying the Complaint's unfair labor practice allegations, and proffering various affirmative defenses.

This case is before me based upon a Joint Motion and Stipulation of Facts (Joint Motion) submitted by the parties on September 29, 2017. Pursuant to Section 102.35(a)(9) of the Board's Rules and Regulations the parties agree to waive a hearing and ask that this matter be decided based upon the Joint Motion, the associated exhibits, along with the briefs filed by the parties on November 17, 2017. Furthermore, in the Joint Motion the parties stipulate the following issues to be resolved with respect to the complaint:

> (1) Whether Respondent violated Section 8(a)(l) of the Act by maintaining an arbitration agreement which employees would reasonably conclude prohibits or restricts their right to file unfair labor practice charges with the Board;
>
> (2) Whether the language in Thoma's initial unfair labor practice charge constitutes an admission that the arbitration agreement excludes claims seeking to enforce rights under the Act, and whether such an admission should be binding notwithstanding the amended charge;
>
> (3) Whether the Federal Arbitration Act (FAA), 9 U.S.C. §§ 1–16, controls enforcement of the arbitration agreement; and
>
> (4) Whether the Complaint is barred by Section l0(b) of the Act.

Having considered the Joint Motion, the stipulated facts and exhibits, along with the arguments of the parties set forth in their respective briefs, I make the following findings of fact and conclusions of law.

I. JURISDICTION AND LABOR ORGANIZATION

CBRE, a Delaware corporation with an office and place of business in Los Angeles, California, is engaged in the businesses of commercial real estate and investment services. In conducting these enterprises, Respondent annually furnishes services valued in excess of $50,000 directly to employers located outside the State of California. Respondent stipulates, and I find, that it is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.[1]

II. FACTS

On August 17, 2016, Thoma filed the initial charge in this matter containing the following language:

> CBRE has been violating Section 8(a)(1) of the Act by maintaining and enforcing a mandatory arbitration agreement that prohibits employees from engaging in protected, concerted activities. That agreement, which employees are required [to] enter as a condition of employment, applies to 'any dispute or claim between you and CBRE.' The agreement also contradictorily then states: 'All claims or disputes subject to arbitration, other than claims seeking to enforce rights under Section 7 of the National Labor Relations Act, must be brought in the party's individual capacity, and not as a plaintiff or class member in any class, collective, or representative action.' It is contradictory because NLRB precedent establishes that employees' rights to engage in concerted activity for mutual aid and protection, protected Section 7 [sic], includes concerted legal activity. Most recently, CBRE violated Section 8(a)(1), on July 14, 2016, when it obtained a hearing date from the LA Superior Court in Case No. BC612940 for a motion to compel arbitration of Mr. Thoma's class claims. (JX. 3)

The charge was amended on December 7, 2016, to state:

> The Employer, CBRE, Inc./CBRE Group, Inc. by maintaining and enforcing the policies set forth in the Employer's Arbitration Agreement, unlawfully prevented its employees from engaging in protected, concerted activities, namely the activity of filing joint, class, or collective employment-related claims in any forum, arbitral or judicial. The policies maintained and enforced by the Employer are facially unlawful in that they also impermissibly restrict their employees' access to the Board and its processes. (JX. 5)

The parties stipulated that, since at least March 17, 2016, Respondent has maintained an arbitration agreement that applies to all of its statutory employees within the meaning of Section 2(3) of the Act. The pertinent language in the arbitration agreement reads as follows:

> In the event of any dispute or claim between you and CBRE

[1] The facts set forth herein are based upon the Joint Motion and related exhibits. Citations to the joint exhibits are denoted by "JX." See also *McDonough v. CBRE, Inc.*, No. CV 14-13674-FDS, 2016 WL 2349102, at *1 (D. Mass. 2016) (Court notes that CBRE, Inc. is a Delaware corporation with its principal place of business in California).

(including all of its employees, agents, subsidiary and affiliated entities, benefit plans, benefit plans' sponsors, fiduciaries, administrators, affiliates, and all successors and assigns of any of them), we jointly agree to submit all such disputes or claims to confidential binding arbitration and waive any right to a jury trial.

The claims and disputes subject to arbitration include all claims arising from or related to your employment or the termination of your employment including, but not limited to, claims for wages or other compensation due; claims for breach of any contract or covenant (express or implied); tort claims; claims for discrimination (including but not limited to, race, sex, religion, national origin, age, marital status, or medical condition or disability); claims for benefits (except where an employee benefit or pension plan specifies that its claims procedure shall culminate in an arbitration procedure different from this one); and claims for violations of any federal, state, or governmental law, statute, regulation, or ordinance. All claims or disputes subject to arbitration, other than claims seeking to enforce rights under Section 7 of the National Labor Relations Act, must be brought in the party's individual capacity, and not as a plaintiff or class member in any class, collective, or representative action. The arbitration (i) shall be conducted pursuant to the provisions of the arbitration rules of the Federal Arbitration Act (ii) shall be heard before a retired State or Federal judge in the county containing the Company's office in which you were last employed. The Company shall pay for all fees and costs of the Arbitrator; however, each party shall pay for its own costs and attorney's fees, if any, except as otherwise required by law.

In consideration of my employment, I agree to conform to the rules and standards of CBRE, Inc. as amended from time to time at the company's sole discretion.

. . .

I represent and warrant that I have read and fully understand the foregoing and seek employment under these conditions.

III. ANALYSIS

A. The Arbitration Agreement Violates Section 8(a)(1) of the Act

The language in Respondent's arbitration agreement violates Section 8(a)(1) as employees would reasonably read the agreement to require arbitration of all employment related claims, including alleged violations of the Act. *Lutheran Heritage Village-Livonia*, 343 NLRB 646 (2004). In *U-Haul Co. of California*, 347 NLRB 375, 377–378 (2006), the Board found an arbitration clause with similar language constituted violation. Citing *Lutheran Heritage*, the Board held that, while the language in the arbitration agreement did not explicitly restrict employees from resorting to the Board's remedial procedure, the breadth of the language used, referencing the arbitration provision's applicability to causes of actions recognized by "federal law or regulations," would reasonably be read by employees to prohibit the filing of charges with the Board. Id. at 377.

The same is true here. Respondent's arbitration agreement requires mandatory arbitration of "any dispute or claim . . . arising from or related to your employment or the termination of your employment including . . . claims for violations of any federal, state, or governmental law, statute, regulation, or ordinance." (JX. 1) As with the language in *U-Haul Co. of California*, Respondent's broad language requiring mandatory arbitration of all claims for violations of any "federal or governmental law, statute, regulation, or ordinance," would reasonably be read by employees to prohibit the filing of unfair labor practice charges with the Board. Because the "language of the policy is reasonably read to require employees to resort to the Respondent's arbitration procedures instead of filing charges with the Board," it violates Section 8(a)(1) of the Act. Id. at 377. See also *Cellular Sales of Missouri, LLC v. NLRB*, 824 F.3d 772, 774, 778 (8th Cir. 2016) (sustaining the Board's finding of a violation where the employer maintained an arbitration agreement requiring the individual arbitration of all "claims, disputes, or controversies arising out of, or in relation to this document or Employee's employment with [the] Company," as employees would reasonably interpret the quoted language to limit or preclude their rights to file charges with the Board).

The arbitration agreement's reference to the NLRA does not save Respondent from liability. The agreement states that "[a]ll claims or disputes subject to arbitration, other than claims seeking to enforce rights under Section 7 of the National Labor Relations Act, must be brought in the party's individual capacity, and not as a plaintiff or class member in any class, collective, or representative action." The plain reading of this sentence, in the context of the entire agreement, only exempts NLRA related claims from the agreement's prohibition against class, or collective, arbitration. Thus, when reading the clause in full, NLRA related claims are still subject to mandatory arbitration, but can be pursued through collective or class-action arbitration, while non-NLRA related claims must be pursued through individual arbitration. Accordingly, the mandatory nature of Respondent's arbitration policy would reasonably be ready by "employees as substantially restricting, if not totally prohibiting, their access to the Board's processes." *Bill's Electric, Inc.*, 350 NLRB 292, 296 (2007).[2]

B. Neither the Language of the Initial Charge Nor the FAA Saves Respondent From a Violation

Respondent argues that there is no violation, and that the language in the original charge is an admission by Thoma "that the [a]rbitration [a]greement excludes claims seeking to enforce rights under Section 7 . . . and that Thoma would not believe on

[2] Even if this clause could plausibly be read to exclude NLRA related claims from the agreement's requirement that all disputes be subject to mandatory arbitration, the Board "routinely has found insufficient language in workplace rules purporting to except, or 'save,' employees' legal rights from restrictions on their conduct . . . even where such exceptions referred to the 'NLRA' or 'National Labor Relations Act.'" *ISS Facility Services*, 363 NLRB No. 160, slip op. at 2 (2016). A violation still exists because "absent language more clearly informing employees about the precise nature of the rights supposedly preserved, the rule remains vague and likely to leave employees unwilling to risk violating the rule by exercising Section 7 rights." Id.

face value that the language . . . precluded him from filing a charge with the Board." (Resp. Br., at 7) This argument fails. The test to determine whether a rule violates the Act is an objective one, and is not dependent upon an employee's subjective interpretation. *Miami Systems Corp.*, 320 NLRB 71, fn. 4 (1995), enfd. in pertinent part 111 F.3d 1284 (6th Cir. 1997). Thus Thoma's subjective belief as to whether the arbitration agreement precluded him from filing a charge not relevant. Id. Moreover, even if Thoma's subjective belief—as evidenced by the language used in the initial charge—is relevant, which it is not, it only highlights why the language is a violation as it is unlawfully vague and "likely to leave employees unwilling to risk violating the rule by exercising Section 7 rights." *ISS Facility Services, Inc.*, 363 NLRB No. 160, slip op. at 2 (2016). Finally, because the language in the arbitration agreement violates the Act, it "falls within the FAA's savings clause." *NLRB v. Alternative Entertainment, Inc.*, 858 F.3d 393, 408 (6th Cir. 2017).[3] Thus, the Federal Arbitration Act does not preclude the finding of a violation. Id.

C. The Complaint is Not Barred by Section 10(b) of the Act

If an employer or a union maintains an unlawful rule during the 6-month period prior to the filing of a charge, Section 10(b) does not preclude the Board from finding a violation, even if the rule was adopted more than 6 months prior to the filing of the charge. *Carney Hospital*, 350 NLRB 627, 627–28, 640 (2007); *Ivy Steel & Wire, Inc.*, 346 NLRB 404, 422 (2006). Such is the case here. The parties stipulated that Respondent's arbitration agreement has been in effect since at least March 17, 2016, and that it was in effect at the material time periods set forth in the Complaint. This includes the period of time when Thoma filed the charge and amended charge. Accordingly, the Complaint is not time-barred by Section 10(b) of the Act. *Cellular Sales of Missouri,* 824 F.3d at 779 (charge is not time-barred when it is filed during the period in which respondent has maintained the unlawful arbitration agreement).

CONCLUSIONS OF LAW

1. The Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

2. By maintaining an arbitration agreement that employees reasonably would believe bars them from filing charges with the National Labor Relations Board the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 2(6) and (7) of the Act and has violated Section 8(a)(1) of the Act.

REMEDY

Having found that the Respondent has engaged in certain unfair labor practices, I shall order it to cease and desist therefrom and to take certain affirmative action designed to effectuate the policies of the Act. Specifically, Respondent is ordered to rescind or revise its arbitration agreement, and to notify employees that it has done so. If the arbitration agreement has been revised, Respondent shall provide employees a copy of the revised agreement as set forth in the Order.

On these findings of fact and conclusions of law, and on the entire record, I issue the following recommended[4]

ORDER

Respondent CBRE, Inc., Los Angeles, California, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Maintaining an arbitration agreement that employees would reasonably believe bars or restricts rights to file charges with the National Labor Relations Board.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of their rights under Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act:

(a) Rescind the arbitration agreement in all of its forms, or revise it in all its forms to make clear to employees that the arbitration agreement does not restrict employees' rights to file charges with the National Labor Relations Board.

(b) Notify all applicants, current employees, and former employees, who were required to sign or electronically acknowledge the arbitration agreement in any form that the arbitration agreement has been rescinded or revised and, if revised, provide them with a copy of the revised agreement.

(c) Within 14 days after service by the Region, post at its Los Angeles, California facility copies of the attached notice marked "Appendix."[5] Copies of the notice, on forms provided by the Regional Director for Region 31, after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places, including all places where notices to employees are customarily posted. In addition to physical posting of paper notices, notices shall be distributed electronically, such as by email, posting on an intranet or an internet site, and/or other electronic means, if the Respondent customarily communicates with its employees by such means. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. If the Respondent has gone out of business or closed any of the facilities involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at the closed facilities any time since March 17, 2016.

(d) Within 21 days after service by the Region, file with the Regional Director for Region 31 a sworn certification of a

[3] Pursuant to the FAA's savings clause, "an arbitration provision that runs afoul of ay 'grounds as exist at law or in equity for the revocation of any contract' is unenforceable." *Alternative Entertainment, Inc.*, 858 F.3d at 406 (quoting 9 U.S.C. § 2).

[4] If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

[5] If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply with this order.

Dated, Washington, D.C. November 24, 2017

APPENDIX

NOTICE TO EMPLOYEES

POSTED BY ORDER OF THE

NATIONAL LABOR RELATIONS BOARD

An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union

Choose a representative to bargain with us on your behalf

Act together with other employees for your benefit and protection

Choose not to engage in any of these protected activities.

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WE WILL NOT in any like or related manner interfere with, restrain, or coerce employees in the exercise of the rights listed above.

WE WILL rescind our arbitration agreement in all of its forms, or revise it in all of its forms to make clear that the arbitration agreement does not restrict your right to file charges with the National Labor Relations Board.

WE WILL notify all applicants and current and former employees who were required to sign the arbitration agreement in any of its forms that the agreement has been rescinded or revised and, if revised, provide them a copy of the revised agreement.

CBRRE, INC.

The Administrative Law Judge's decision can be found at www.nlrb.gov/case/21-CA-182368 or by using the QR code below. Alternatively, you can obtain a copy of the decision from the Executive Secretary, National Labor Relations Board, 1015 Half Street, S.E., Washington, D.C. 20570, or by calling (202) 273–1940.